IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 346 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

IDEA CELLULAR LTD.,

Versus

STATE OF GUJARAT

Appearance:

M/S THAKKAR ASSOC. for Petitioner No. 1-2

MRS MANISHA L. SHAH, APP for Respondent No. 1

CORAM : MR.JUSTICE J.R.VORA

Date of decision: 22/07/2003

ORAL JUDGEMENT

1. Heard learned Advocate Mr. P.M. Thakkar for the petitioners and learned APP Mrs. Manisha L. Shah for the Respondent State. Rule. Service of Rule is waived by learned APP Mrs. Manisha L. Shah.

2. At the request of learned Advocates for the parties, the Rule was heard finally.

3. The Revision Application is filed against the order passed by the learned Metropolitan Magistrate, Ahmedabad, on 7.03.2003 in Criminal Case No.73/2003 upon a complaint filed against present petitioners and one more accused by Telecom Regulatory Authority of India, New Delhi, for the offence punishable under Sections 29 and 30 of the Telecom Regulatory Authority Act (TRA Act, 1997). Undoubtedly, punishment for Section 29 read with Section 30 of the said Act is fine only, and the cases for such a charge is triable as summons cases. Criminal Procedure Code Section 204 makes it amply clear that by sub-sec. (1)(a), in summons case, the Magistrate shall issue summons for the attendance of the accused. However, in spite of the above legal position, upon filing a private complaint, bailable warrant came to be issued by the learned Metropolitan Magistrate against the accused No.2 Shri Grahame Burke and accused No.3 Shri Rahul Vatts. The grievance in this Revision Application is to the above extent only.

4. In view of the clear position of law as aforesaid, the order impugned in this Revision Application is required to be revised to the extent that issuance of bailable warrant against original accused Nos. 2 and 3 - present petitioner No.2 Shri Rahul Vatts (since non-applicant) in this Revision Application is converted into the order of issuance of Summons.

5. In this view of the matter, the order impugned in this Revision Application, issuing bailable warrant against original accused Nos. 2 and 3 is quashed and is revised to the extent that original accused Nos. 2 and 3 are issued with Summons in place of bailable warrant. Accused Nos. 2 and 3 will be allowed to appear before the Trial Magistrate through Pleader or Advocate as per the law in response to the summons as issued to them as aforesaid.

6. This Criminal Revision Application is allowed to the aforesaid extent and disposed of accordingly. Rule is made absolute.

(J.R. Vora, J.)

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